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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/898,432      | 07/02/2001  | Hiroaki Shinohara    | 50R4612             | 1908             |

7590

05/23/2005

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EXAMINER

CHANG, SHIRLEY

ART UNIT

PAPER NUMBER

2614

DATE MAILED: 05/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |                                  |  |
|------------------------------|--------------------------------------|----------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>09/898,432 | <b>Applicant(s)</b><br>Shinohara |  |
|                              | <b>Examiner</b><br>Shirley Chang     | <b>Art Unit</b><br>2614          |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

***Claim Objections***

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

1. Misnumbered claim 31 has been renumbered 30.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 6, 7, 9-16, 18, 20-25, and 27, 29, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Nickum (US 6,721,954).

As to claim 1, the claimed TV is met by client 210, which includes “a television tuner as an I/O device for receiving programming from a local airwave broadcast station 214” (column 5, lines 1-2). The claimed personal video recorder “receiving televised content” is met by recording device 322 (column 6, lines 28-35), which is coupled to the TV and “may be coupled with information handling system 100” (column 6, lines 26-27), and includes a processor 102 (claimed processor coupled to the TV) and “voice recognition software,” facial recognition software, and fingerprint identification

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techniques (column 5, lines 60-67 and column 6, lines 1-4) to identify user desired programs (column 5, line 48) (claimed "biological characteristic recognition module to screen televised content").

As to claim 2, "when a program is found in program guide database 312 that is determined to be similar to the user profile programs or satisfies the user selection criteria, program guide 310 schedules the program to be recorded at the scheduled broadcast time" (column 6, lines 18-23) (claimed processor determining whether to allow presentation of televised content on the TV...). In other words, the user profile is retrieved corresponding to the user's identification data, which then determines what content is to be shown, which is effectively the claimed using of recognition module output to determine allowable presentation.

As to claim 3, "each user may be uniquely identified by program guide 310 and have an associated user profile stored in database 318" (column 5, lines 56-57), where the identifying process involves voice recognition as discussed above (claimed processor associating output of recognition module with at least one viewer profile stored in a database accessible to the processor).

As to claim 4, "information related to the selected programs in a user profile database 318 is stored and user-related information stored in the user profile database 318 may include the categories of programs frequently viewed by the user" (column 5, lines 49-53), wherein the user profile is created the profile is associated with biological user identification as previously discussed (meets claimed processor associating recognition module output with the viewer profile).

As to claim 6, the claimed televised content being at least one commercial or TV program is met as addressed in claim 2.

As to claim 7, "the set of instructions can be stored in the memory of another computer and transmitted over a local area network or a wide area network," wherein the instructions are "resident in the main memory 116" (column 7, line 66) which contains the user profile database 318 (claimed system comprising a database accessible to the processor and updatable with information available on a wide area network).

As to claim 9, the claimed "recognition module being a voice recognition module" is met as discussed in claim 1.

As to claim 10, the claimed 'receiving of content, receiving of at least one viewer biological signal, and determining whether to display the content based on the biological content' are all met as discussed in claim 1.

As to claim 11, the claimed "establishing of at least one viewer file and associating the biological signal with the viewer file" is met as discussed in claim 3.

As to claim 12, the claimed 'viewer profile associated with a vocal signal' is met as discussed in claim 3.

As to claim 13, the claimed 'viewer profile established at least in part by information input by a person' is met as discussed in claim 3, since the viewer being identified by the recognition module is a person.

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As to claims 14 and 15, the claimed viewer profile classified and compared to a predetermined profile is met and act of determining using the viewer profile are met as discussed in claim 3.

As to claim 16, the claimed associating of a viewer preference with the viewer profile is met as discussed in claim 4.

As to claim 18, the claimed content being at least a commercial or TV program is met as discussed in claim 6.

As to claim 20, "when program 310 identifies one or more programs in program guide data 312 that meet the romantic program criterion...program guide 310 schedules to record the identified program or programs" (column 6, lines 49-54) (claimed storing of content for playback on TV based on vocal signal).

As to claim 21, the claimed TV, biological recognition means, and processor are met as discussed in claim 1.

As to claim 22, the claimed processor is met as discussed in claim 12.

As to claim 23, the claimed viewer profile is met as discussed in claim 13.

As to claim 24, the claimed viewer profile is met as discussed in claim 14.

As to claim 25, the claimed processor means is met as discussed in claim 4.

As to claim 27, the claimed content is met as discussed in claim 6.

As to claim 29, the claimed means for storing is met as discussed in claim 20.

As to claim 30, the claimed processor means associated with a personal video recorder is met as discussed in claim 1.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 5, 17, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nickum (US 6,721,954) in view of Hunter et al (US 5,485,518).

As to claim 5, Nickum does not explicitly disclose the viewer preference being a channel selection. However, the Hunter et al. reference teaches a voice authorized TV control system involving channel preferences associated with a user (column 5, lines 22-28). Therefore, it would have been clearly obvious to one of ordinary skill in the art at the time the invention was made to include the Hunter et al. teaching with Nickum as to allow channel selection preferences in order to facilitate more accurate profiles matching a user's profile.

As to claim 17, the viewer preference met as discussed in claim 5.

As to claim 26, the viewer preference met as discussed in claim 5.

4. Claims 8, 19, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nickum (US 6,721,954).

As to claim 8, although the Nickum reference fails to disclose "a processor sending at least one viewer profile with preferences to at least one marketing entity," the

examiner gives Official Notice that it is notoriously well known in the art to allow firms to target services, products, programs based on user profiles to interested parties that are more likely to use them. Accordingly, it would have been clearly obvious to one of ordinary skill in the art to modify the Nickum reference to send viewer profile preferences to marketing entities for subsequent use.

As to claim 19, the viewer preference met as discussed in claim 8.

As to claim 28, the viewer preference met as discussed in claim 8.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shirley Chang whose telephone number is (571) 272-8546. The examiner can normally be reached on 8:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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A handwritten signature in black ink, appearing to read 'J. Miller', with a long horizontal flourish extending to the right.

**JOHN MILLER**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**